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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,458	12/16/2005	Robert Kopetzky	41587-377	3908
75474	7590	01/16/2008		
KANG INTELLECTUAL PROPERTY LAW, LLC 214 ELM STREET, SUITE 106 WASHINGTON, MO 63090				
			EXAMINER GARRETT, ERIKA P	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 01/16/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/532,458

**Applicant(s)**

KOPETZKY ET AL.

**Examiner**

Erika Garrett

**Art Unit**

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9-11 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 5, 8, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/22/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: the first few lines of the specification does not identify the parent application 10/280921 and does not identify the above parent application as being abandoned. Further it appears that applicant has file two 371 applications. Though this fact is not quite clear because the first identified 371 has the serial number of the presently identified application 10/532458.
2. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4,6-7,9-11, 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Schuster (5,397,164). Schuster discloses the use of an adjustable lumbar support assembly (arching mechanism); a bowden cable actuator (22,23) for actuating a bowden cable (10) having a first wire (located at the end of 10) portion and a second wire portion (10'); and a transmission amplifier (2, figures 1-3) assembly for the bowden cable, the transmission amplifier assembly comprising a rotary member (hand wheel) being supported rotatably, the bowden cable with the first wire portion being

connected between the bowden cable actuator and the transmission amplifier assembly and with the second wire portion being connected between the transmission amplifier assembly and the adjustable lumbar support member, and the first wire portion and the second wire portion of the bowden cable being both coupled to the rotary member (hand wheel) such that movement of the first wire portion imparts rotation of the rotary member and thereby movement of the second wire portion in accordance with a predetermined transmission ration, the movement of the second wire portion being facilitated compared to the movement of the first wire portion by the predetermined transmission ration.

5. In regards to claim 2, adjustable lumbar support (arching mechanism) wherein the transmission amplifier assembly is arranged such that the movement of the first wire portion imparts the movement of the second wire portion which is increased by the predetermined transmission ratio with respect to the movement of the first wire portion, see figures 2-3, 8b, 8c, 8.

6. In regards to claim 3, the first wire portion and second wire portion both are directly fixed at the rotary member, see figure 4.

7. In regards to claim 4, the first wire portion and the second wire portion extend both along a periphery of the rotary member.

8. In regards to claim 6, the rotary member has a substantially longitudinal shape.

9. In regards to claim 7, the rotary member has a substantially elliptic shape.

10. In regards to claim 9, the rotary support member is supported rotatably around a point of rotation, the point rotation being arranged eccentrically in the direction of the rotary member, see figures 10-11 and 13-14.
11. In regards to claim 10, the first and second wire portion is formed by a single wire (10) movably in the sleeve of the cable, see column 5 lines 10-15.
12. In regards to claim 11, the bowden cable is held in place by the holding member (sleeve).
13. In regards to claim 14, the amplifier is arranged such that a lever arm 7 defined between the sires and a point of rotation of the rotary member is larger than a lever arm define between the wires by a transmission rotation.
14. In regards to claim 15, the lumbar support assembly is attached to the adjustable lumbar support member.

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuster. Schuster fails to show the use of the method of adjusting a lumbar support.
17. It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time of the instant invention to modify Schuster by producing the

article by the specifically claimed method of adjusting steps. "Modifying Schuster, by incorporating the specifically claimed method of adjusting steps in its production, provides an ergonomically curvable lumbar support for occupants comfort.

***Allowable Subject Matter***

18. Claims 5,8,12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to lumbar support: U.S Pat. No. 5664841, 5360086.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika Garrett whose telephone number is 571-272-6859. The examiner can normally be reached on Monday-Thursday 8:30 a.m.-6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EG  
January 7, 2008

A handwritten signature in black ink, appearing to read 'Dunn', with a stylized, flowing script.

DAVID DUNN  
SUPERVISORY PATENT EXAMINER